

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO: 5:00-CR-00181-BR

UNITED STATES OF AMERICA

v.

CHESNEY DEVON FAIRCLOUGH

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ORDER

This matter is before the court on defendant's *pro se* motion "to assume custody." (DE # 78.) Defendant, who is currently in the custody of the Georgia Department of Corrections on an unrelated murder conviction, requests that the court "assume custody of [him], to be housed in a federal facility" because the state authorities are violating various of his constitutional rights. (*Id.* at 1-3.) The court does not have the unilateral authority to direct the Bureau of Prisons to assume custody of defendant from Georgia to begin service of his federal sentence. See United States v. Warren, 610 F.2d 680, 684-85 (9th Cir. 1980) (district court's Rule 35 order transferring defendant from state to federal custody violated principles of comity and separation of powers). The motion is DENIED. To the extent defendant contends that Georgia authorities are violating his constitutional rights, defendant has other avenues for relief, such as a civil action pursuant to 42 U.S.C. § 1983.

This 21 March 2013.



W. Earl Britt
Senior U.S. District Judge